IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 75 OF 1991

Trustees of Vanita Vishram,)
Sardar Vallabhabhai Patel Road,)
Bombay 400 004.) ...Applicant
V/s.
The Commissioner of Income-tax,)
Bombay City IV, Bombay.) ...Respondent

Ms.Asifa Khan for Appellant.
Mr.A.N. Kotangle for Respondent.

CORAM : V.C. DAGA AND
A.S. AGUIAR, JJ.

DATED : JULY 12, 2005.

P.C.:-

. This is the reference under Section 256(1) of the Income Tax Act made by the Income Tax Appellate Tribunal ('The Tribunal' for short). The question referred by the Tribunal is arising out of its order passed in ITA No.5025 (Bom)/1984 for the Assessment Year 1981-82. The same reads as under :-

1. Whether, on the facts and in the circumstances of the case, the assessee was entitled to exemption u/s.10(22) on income earned on surplus funds of the school (run by

the assessee-trust) for assessment year 1981-82?"

. This Court while deciding the above question in the case of **Trustees of Vanita Vishram v/s. CIT in I.T.R. No. 150/88** decided on 29th June, 2005 (unreported) has taken a view that so long as the income of the institution, which solely exists for educational purpose and not for earning profit, is applied for the educational purpose, such income of the institution is exempted under Section 10(22) of the IT Act. Following the same view for the reasons recorded therein, we answer the above question in favour of the assessee and against the revenue.

(A.S. AGUIAR, J.) **(V.C. DAGA, J.)**